

# In the United States Court of Federal Claims

John T Kennedy

Plaintiff(s),

v.

THE UNITED STATES,

Defendant.

Case No. 23-1276 T

Judge

## COMPLAINT

Your complaint must be clearly handwritten or typewritten, and you must sign and declare under penalty of perjury that the facts are correct. If you need additional space, you may use another blank page. A fillable pdf is available at <http://uscfc.uscourts.gov/filing-a-complaint>.

If you intend to proceed without the prepayment of filing fees (*in forma pauperis* (IFP)), pursuant to 28 U.S.C. § 1915, you must file along with your complaint an application to proceed IFP.

- JURISDICTION.** State the grounds for filing this case in the United States Court of Federal Claims. The United States Court of Federal Claims has limited jurisdiction (*see e.g.*, 28 U.S.C. §§ 1491-1509).

This is a claim against the Internal Revenue Service. Plaintiff had an agreement with the I.R.S. for the later to refund overpayments made to the agency by the Social Security Administration (SSA). The checks issued by the I.R.S. were not received by the Plaintiff since he was out of the country at the time. The I.R.S. is now refusing to reissue the checks. The undersigned believes this court has jurisdiction under 28 U.S.C. section 1491.

Received - USCFC

AUG 04 2023

**2. PARTIES**

Plaintiff, John T Kennedy, resides at Rua Fernando Osório 285 - Teresópolis - CEP 91720 - 330  
 (Street Address)

Porto Alegre - RS - Brazil, (772) 618 - 2653  
 (City, State, ZIP Code) (Telephone Number)

If more than one plaintiff, provide the same information for each plaintiff below.

**3. PREVIOUS LAWSUITS.** Have you begun other lawsuits in the United States Court of Federal Claims? ☐ Yes ☒ No

If yes, please list cases: \_\_\_\_\_

**4. STATEMENT OF THE CLAIM.** State as briefly as possible the facts of your case. Describe how the United States is involved. You must state exactly what the United States did, or failed to do, that has caused you to initiate this legal action. Be as specific as possible and use additional paper as necessary.

Plaintiff is disabled and collects Social Security Disability Benefits. The Internal Revenue Service imposed a Levy against these benefits for a tax deficiency allegedly due the I.R.S. In or about January 2019, Plaintiff entered into an agreement with the I.R.S. that the later would no longer impose a levy against plaintiff's disability benefits based on hardship. The I.R.S. notified the Social Security Administration (SSA) to discontinue imposing the levy against Plaintiff's disability benefits. Unfortunately, there was an unreasonable delay in SSA's discontinuance of the levy and the levy continued for several months after the I.R.S. notified them to discontinue the levy. Plaintiff and the I.R.S. reached an agreement whereby the later would pay Plaintiff \$5,200.80 representing the overpayment caused by SSA's delay in removing the levy. The I.R.S. sent two checks (\$1,733 on 6/27/19 and \$3,467.80 on 7/19/19) to Plaintiff's P.O. Box in Stuart, Florida. Due to a family emergency experienced by his spouse's family in Brazil and travel restrictions imposed as a result of the covid epidemic, plaintiff was delayed in returning to Florida. When he did return, Plaintiff was astonished to learn that the post office had closed his P.O. Box and returned all his mail, including the above-referenced I.R.S. checks. The I.R.S. has acknowledged that the checks were returned and voided, but refuses to reissue the checks to plaintiff. A new I.R.S. agent decide to apply the checks against the tax deficiency contrary to the agreement previously reached with another I.R.S. agent. Written documentation of the agreement are in the sole possession of the I.R.S.

Plaintiff is also entitled to a tax refund of \$36,111. This check was issued on 12/13/10. Plaintiff was experiencing significant health problems at that time and was hospitalized for extended periods. Plaintiff believes that was the reason he didn't receive that check which was also returned to and voided by the I.R.S. To date, the I.R.S. has provided no

**5. RELIEF.** Briefly state exactly what you want the court to do for you.

Reimbursement of the three checks issued by the I.R.S. plus costs and prejudgment interest at the legal rate

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 13<sup>th</sup> day of JUNE, 2023.  
(day) (month) (year)

\_\_\_\_\_  
Signature of Plaintiff(s)

Paragraph 4 continued

explanation for its failure to reissue this check.

Plaintiff has complied with all conditions precedent to bringing this claim, including serving forms 3911 (Taxpayer Statement Regarding Refund). These forms are attached as exhibits hereto.